

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Town Hall on Monday, September 17, 2012
at 6:00 P.M.**

Council President Arthur S. Weber, Jr., Presiding

Vice President Bruce J. Long

Councillor Richard Cambra

Councillor Christopher T. Semonelli

Councillor Edward J. Silveira, Jr.

Councillor Antone C. Viveiros

Councillor Barbara A. VonVillas, Members Present

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:

If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)

PRESENTATIONS – 6:00 P.M.

1. Memorandum of Middletown Police Chief Anthony M. Pesare, re: Middletown Police Department swearing in and award ceremony.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

Police Chief Anthony Pesare recognized Patrol Officer Joanne Carberry, whom recently retired. Mr. Pesare announced the promotion of Sergeant Michael J. Faria, Jr. to the rank of Lieutenant, Patrol Officer Ferenc Karoly to the rank of Sergeant, Detective Richard Gamache to the rank of Sergeant Timothy Beck, Detective Timothy Beck to Sergeant, Patrol Officer Christopher Rosa to the rank of Detective and Patrol Officer Adam Tobias to the rank of Detective were introduced by Police Chief Pesare, all sworn in by the Town Clerk and pinned by family members. Lieutenant Patrick Sweeney received the FBI National Academy Graduation Plaque, which was presented by Council President Weber.

2. Communication of M. Teresa Paiva Weed, President of the State

Senate, re: Citation Governor's Host Committee America's Cup World Series.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

Town Administrator Shawn Brown received a Citation from Governor Lincoln D. Chaffee, which was presented by Council President Weber.

EXECUTIVE SESSION – IMMEDIATELY FOLLOWING PRESENTATIONS

3. Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (1) personnel (Town Administrator) and (5) land acquisition (Wyatt Road).

On motion of Vice President Long, duly seconded, it was voted unanimously to recess open session and reconvene in executive

session at 6:20 pm.

On motion of Vice President Long, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 6:55 pm.

Town Solicitor Michael W. Miller recused himself from the land acquisition (Wyatt Road), due to a possible conflict of interest, business related.

On motion of Vice President Long, duly seconded, it was voted to approve project (land acquisition), finance as recommended by administration, legal counsel and administration to review all legal documents; Council President Weber, Councillors Cambra, Semonelli and Silveira voted YES; Councillors Viveiros and VonVillas voted NO to said motion.

On motion of Vice President Long, duly seconded, it was voted

unanimously to seal the executive session minutes pursuant to Section 42-46-7. RIGL.

Councillor Silveira left the meeting at 6:56 pm.

On motion of Vice President Long, duly seconded, it was voted unanimously to recess this meeting at 6:56 pm until 7:00 pm.

On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene this meeting at 7:00 pm.

PUBLIC FORUM SESSION

4. Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no

longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

No one addressed the Council during this session.

On motion of Vice President Long, duly seconded, it was voted unanimously to act as a Board of License commission.

BOARD OF LICENSE COMMISSION

**5. Applications received from the following named persons, firms or corporations for RENEWAL of Alcoholic Beverage Licenses for the 2012-2013 licensing year. (Requires Advertising for Public Hearing)
(See attached list)**

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said applications and advertise for October

15, 2012, regular meeting of the board.

6. Application of KJ's Pub, Inc. dba KJ's Pub of a Class BV Alcoholic Beverage License, to change its current name to KJ's Pub, LLC dba KJ's Pub on its Retailer's Alcoholic Beverage License for premises located at 61 Aquidneck Avenue, Middletown, Rhode Island. (Requires Advertising for Public Hearing)

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said application and advertise for October 15, 2012, regular meeting of the board.

On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene as a Town Council.

CONSENT

7. Email communication from Pawtucket City Clerk, with enclosure, re: Letter sent to Governor Lincoln D. Chafee regarding state surplus funds.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said email communication.

8. Continued from Regular Meeting, September 7, 2012.

Memorandum of Town Administrator, with enclosures, re: Consulting – Kempenaar Valley. (Administration requests item be continued to October 15, 2012)

On motion of Vice President Long, duly seconded, it was voted unanimously to continue said item to October 15, 2012.

9. Continued from Regular Meeting, September 7, 2012.

Resolution of the Council, re: Consulting – Kempenaar Valley.

(Administration requests item be continued to October 15, 2012)

On motion of Vice President Long, duly seconded, it was voted unanimously to continue said item to October 15, 2012.

10. Communication of Finance Director, with enclosure, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

11. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

12. Petitions received from the following named persons for perpetual care of burial lots in the Middletown cemetery:

- a. Christos Psilos – Section 53, Lots 9 and 10**
- b. Richard I. Davis – Section 53, Lots 11 and 12**
- c. Mildred West – Section 53, Lots 13 and 14**

On motion of Vice President Long, duly seconded, it was voted unanimously to receive and approve said petitions.

13. Communication of Joseph A. Keough, Jr., Esquire, re: Proposed Rate Change – City of Newport – Utilities Department- Water Division. (Application to change rates on file in the Office of the Town Clerk)

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

14. Applications received from the following named persons, firms or corporations for RENEWAL of Victualling House Licenses, Additional Hours of Operation, for the 2012-2013 licensing year. (Requires Advertising for Public Hearing) (See attached list)

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said applications and advertise for October 15, 2012.

15. Application of Laurin Enterprises dba Gold's Auto Wrecking Company, 113 Fenner Avenue, for RENEWAL of a Junk Dealer's License for the 2012-2013 licensing year.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewal.

16. Application of Middletown Columbus Club, Inc., 7 Valley Road, for RENEWAL of a Bingo License for the 2012-2013 licensing year.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewal.

17. Application of Melissa Morgan and Douglas Jost for a Special Event Permit for Friday, June 7, 2013 (Wedding Ceremony) to be held at Dunlap Wheeler Park beginning at 3:00 pm to 7:00 pm.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said Special Event permit.

LICENSE & PERMITS

18. Application for Special Events Permit from Newport County Community Mental Health Center, Annual Bike-A-Thon, to be held on Sunday, September 23, 2012 from 9:00 am to 2:00 pm. (Request to waive fee attached; see attached map for route)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant Special Event permit and waive said fee.

19. Application of Newport Vineyards, 909 East Main Road, for a one day AMUSEMENT License for a Comedy Show (6:00 pm until 9:00 pm) – September 29, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license.

PUBLIC HEARINGS

20. Public Hearing (Advertised)

(Public Hearing Remains Open)

An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Title XV Land Usage, Chapter 152 Zoning Code, Article 25A Wind Turbines. (Planning Board recommendation attached)

Public Hearing remains open.

Forest Handford, 846 Mitchell's Lane, addressed the Council explaining that his family has not had any issues with the Ventura's turbines. Mr. Handford noted his support for continued wind development in the Town.

M. Theresa Santos, 214 Morrison Avenue, noted concern that the Council did not contact the Ventura's regarding their wind turbines.

Councillor Semonellii noted that an ordinance could not be written that would not impact neighbors.

Tim Hetland, 32 Loring Street noted an email to the Council from Tracie Spooner former Middletown resident speaking in opposition to wind turbines. Mr. Hetland noted that Ms. Spooner's email is just her opinion (email was read into the record at the September 4, 2012 regular meeting of the Council). Tim Hetland also noted that the URI Wind Turbine study set rules for turbines.

Vice President Long noted that an ordinance should not be written based on current technology, strict guidelines are needed.

Councillor Viveiros noted concern of wind turbine effects on

neighbors.

John Bagwill, 587 Tuckerman Avenue noted URI Study provides general guidelines for shadow, flicker, etc. Mr. Bagwill explained that the Council has the ability to have stricter standards than what is set forth in the URI study guidelines.

Manuel Mello, 31 Beacon Terrace North, addressed the Council noting concern that the issue of wind turbines is all about making money.

There being no other person present desiring to be heard, public hearing was declared closed.

Town Solicitor Michael W. Miller requested that the Council repeat the finds that the ordinance is consistent with the Town Comprehensive Community Plan.

On motion of Vice President Long, duly seconded, it was voted unanimously to recess this meeting at 7:30 pm.

On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene this meeting at 7:32 pm.

On motion of Vice President Long, duly seconded, it was voted that the proposed wind turbine ordinance as currently drafted is consistent with the Comprehensive Community Plan for the following reasons:

- 1. The location of wind turbines on field crop farms, horticultural nurseries and livestock farms promotes the location of turbines generally in areas that do not dominate the visual qualities of land from prominent public vantage points.**
- 2. The location of wind turbines on field crop farms, horticultural nurseries and livestock farms allows the use of wind turbines in appropriate locations within the town.**

3. The proposed amendment contains performance standards to mitigate the potential negative impacts of wind turbines.

4. The proposed amendment serves to address the aesthetic character of development in the Town.

Council President Weber, Vice President Long and Councillors Semonelli and Viveiros voted YES to said motion; Councillors Cambra and Vonvillas voted NO.

On motion of Vice President Long, duly seconded, it was voted to adopt said ordinance on its second reading Council President Weber, Vice President Long and Councillors Semonelli and Viveiros voted YES to said motion; Councillors Cambra and Vonvillas voted NO.

21. Public Hearing (Advertised)

(Public Hearing Remains Open)

An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Title XV Land Usage, Chapter 152 Zoning Code, Article 6 Application of District Regulations, Section 602 Schedule of District Regulations – Uses and Districts. (Planning Board recommendation attached)

Public Hearing remains open.

There being no person present desiring to be heard, public hearing was declared closed.

On motion of Vice President Long, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.

22. Memorandum of Town Planner, re: Proposed amendments to the Middletown Zoning Ordinance Article 4, and Sections 602.B and 725

regarding ground-mounted solar installation.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

23. Public Hearing (Advertised)

(Public Hearing Remains Open)

An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Title XV Land Usage, Chapter 152 Zoning Code, Article 4 Definitions, Sections 602B and 725 (Solar Array). (Planning Board recommendation attached)

Public Hearing remains open.

On motion of Vice President Long, duly seconded, it was voted unanimously to amend said ordinance, Section 725.(B). a. by adding the phrase “In lieu of the building lot coverage requirements of § 603, the total surface area of solar panels installed in residential districts shall not exceed 25% of lot area.”

There being no person present desiring to be heard, public hearing was declared closed.

On motion of Vice President Long, duly seconded, it was voted unanimously to adopt said ordinance on its second reading, as amended.

ORDINANCE

24. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 34, Taxes, Section 34.04

Definitions.

On motion of Vice President Long, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.

COUNCIL COMMUNICATION

25. At the request of Councillor Cambra, Resolution of the Council, re: Opposing Tolls on the Sakonnet River Bridge.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

TOWN ADMINISTRATOR COMMUNICATIONS

26. Memorandum of Lori Verderosa, MSAPTF Coordinator, thru Town

Administrator, re: MSAPTF Name Change.

Substance Abuse Task Force Director Lori Verderosa reviewed the memorandum, entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

On motion of Vice President Long, duly seconded, it was voted unanimously to change the name of Middletown Substance Abuse Prevention Task Force to Middletown Prevention Coalition.

27. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: Drug Free Communities Grant Evaluator.

Town Administrator Shawn Brown reviewed the memorandum, entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

Middletown Prevention Coalition Director Lori Verderosa reviewed the memorandum, entered here:

29. Resolution of the Council, re: Contract Award: Drug Free Communities Grant Evaluator.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

29. Memorandum of Finance Director, thru Town Administrator, with

enclosures, re: Town Pension Plan Amendment #27 and #28.

Finance Director Lynne Dible reviewed the memorandum, entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

Town Administrator Shawn Brown noted that the changes are due to Federal changes, there is no impact on members of the pension plan and no cost to the Town.

30. Resolution of the Council, re: Approving Amendment to Town Pension Plan Amendment #27 and #28.

On motion of Vice President Long, duly seconded, it was voted

unanimously to pass said resolution.

APPOINTMENTS TO BOARDS & COMMITTEES

31. Appointment of one (1) member to the Middletown Personnel Review Board for a term expiring June 2015. (Bi-partisan Board)

On motion of Vice President Long, duly seconded, it was voted unanimously to appoint Manuel Marques to the Personnel Review Board for a term expiring June 2015.

32. Appointment of one (1) member to the Tax Assessment Review Board for a term expiring October 2015. (Bi-partisan Board)

On motion of Vice President Long, duly seconded, it was voted unanimously to reappoint William J. Flynn to the Tax Assessment Review Board for a term expiring June 2015.

33. Email Communication of Rian Wilkinson, Beach Committee Chair, re: Appointment of Beach Committee representative to the Beach Facility Advisory Committee.

On motion of Vice President Long, duly seconded, it was voted unanimously to confirm the appointment of John Crimmins, representing the Beach Commission and John Ceglarski as alternate.

34. Email Communication of Ralph Thomas, Open Space & Fields Committee, re: Appointment of Beach Committee representative to the Beach Facility Advisory Committee.

On motion of Vice President Long, duly seconded, it was voted unanimously to confirm the appointment of Nicholas Coogan, representing the Open Space & Fields Committee and Austin Prendergast as alternate.

35. Appointment of four (4) members to the Beach Facility Advisory Committee, terms expire one year from the date of appointments.

On motion of Councillor Semonelli, duly seconded, it was voted unanimously to appoint Thomas Darby, Patricia Lang, Komes Rozes and Terrence Mey to the Beach Facility Advisory Committee.

On motion of Vice President Long, duly seconded, it was voted unanimously to adjourn said meeting at 8:05 pm.

Wendy J.W. Marshall, CMC

Council Clerk

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